

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ALAN DEWITT,	§	
	§	No. 340, 2017
Defendant Below,	§	
Appellant,	§	Court Below: Superior Court of the
	§	State of Delaware
v.	§	
	§	Cr. ID No. 1610011768 (K)
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: March 28, 2018

Decided: May 21, 2018

Before **STRINE**, Chief Justice; **VALIHURA** and **VAUGHN**, Justices.

**ORDER**

The appellant's Supreme Court Rule 26(c) brief, the State's response, and the Superior Court record reflect that:

(1) On June 7, 2017, a Superior Court Judge found the appellant, Alan DeWitt, guilty of Drug Dealing, Aggravated Possession of Marijuana, Possession of Drug Paraphernalia, and Failure to Use a Turn Signal. On July 25, 2017, the Judge sentenced DeWitt as follows: For Drug Dealing—fifteen years of Level V incarceration, suspended after successful completion of the Level V Key Program, for Level IV Crest and Level III Aftercare; For Aggravated Possession of Marijuana—eight years of Level V incarceration suspended after six months for Level III Aftercare. The terms of confinement are to run consecutively. Fines were

imposed for Possession of Drug Paraphernalia and Failure to Use a Turn Signal. This is DeWitt's direct appeal.

(2) On appeal, DeWitt's trial counsel ("Counsel") has filed a brief and a motion to withdraw under Supreme Court Rule 26(c). Counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. Counsel informed DeWitt of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw and the accompanying brief. Also, Counsel informed DeWitt of his right to submit points he wanted this Court to consider on appeal. DeWitt has not submitted any points for the Court's consideration. The State has responded to the Rule 26(c) brief and has moved to affirm the Superior Court's judgment.

(3) When reviewing a motion to withdraw and an accompanying brief under Rule 26(c), we must be satisfied that the appellant's counsel has made a conscientious examination of the record and the law for arguable claims.<sup>1</sup> Also, we must conduct our own review of the record and determine "whether the appeal is indeed so frivolous that it may be decided without an adversary presentation."<sup>2</sup>

(4) We have reviewed the record carefully and concluded that DeWitt's appeal is wholly without merit and devoid of any arguably appealable issue. Also,

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<sup>1</sup> *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

<sup>2</sup> *Penson v. Ohio*, 488 U.S. at 81.

we are satisfied that Counsel made a conscientious effort to examine the record and the law and properly determined that DeWitt could not raise a meritorious claim in the appeal.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Karen L. Valihura  
Justice